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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/545,554 04/07/00 HOOK

R 13DV13349

006111  
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QMO2/0814

EXAMINER

ART UNIT	PAPER NUMBER
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3746  
DATE MAILED:

08/14/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Advisory Action</b>	Application No.	Applicant(s)	
	09/545,554	HOOK ET AL.	
	Examiner Ted Kim	Art Unit 3746	
<b>--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</b>			
<p><b>THE REPLY FILED 08 August 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.</b>          Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.</p>			
<b><u>PERIOD FOR REPLY</u> [check only a) or b)]</b>			
<p>a) <input type="checkbox"/> The period for reply expires _____ months from the mailing date of the final rejection.</p> <p>b) <input checked="" type="checkbox"/> In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p>			
<p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>			
<p>1. <input type="checkbox"/> A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37CFR 1.191(d)), to avoid dismissal of the appeal.</p> <p>2. <input type="checkbox"/> The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.</p> <p>3. <input type="checkbox"/> The proposed amendment(s) will not be entered because:</p> <p>(a) <input type="checkbox"/> they raise new issues that would require further consideration and/or search. (see NOTE below);</p> <p>(b) <input type="checkbox"/> they raise the issue of new matter. (see Note below);</p> <p>(c) <input type="checkbox"/> they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p> <p>(d) <input type="checkbox"/> they present additional claims without canceling a corresponding number of finally rejected claims.</p>			
<p>NOTE: _____</p>			
<p>4. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.</p> <p>5. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p> <p>6. <input checked="" type="checkbox"/> The a)<input type="checkbox"/> affidavit, b)<input type="checkbox"/> exhibit, or c)<input checked="" type="checkbox"/> request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet</u>.</p> <p>7. <input type="checkbox"/> The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.</p> <p>8. <input checked="" type="checkbox"/> For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):</p> <p>Claim(s) allowed: _____.</p> <p>Claim(s) objected to: _____.</p> <p>Claim(s) rejected: <u>1-6, 8-20</u>.</p> <p>Claim(s) withdrawn from consideration: _____.</p>			
<p>9. <input type="checkbox"/> The proposed drawing correction filed on _____ a)<input type="checkbox"/> has b)<input type="checkbox"/> has not been approved by the Examiner.</p> <p>10. <input type="checkbox"/> Note the attached Information Disclosure Statement(s) ( PTO-1449) Paper No(s). _____.</p> <p>11. <input type="checkbox"/> Other: _____</p>			
 T. Kim Primary Examiner (703) 308-2631			

Continuation of 6. does NOT place the application in condition for allowance because: the art of record fairly teach the claimed invention. In particular, it is noted that applicant's arguments are not persuasive. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, the teachings are clear, to employ water/steam injection into the premixer of a gas turbine combustor in order to lower NOx emissions and/or CO emissions. Consequently, it is noted that the combination of references applied fully cover applicant's claimed invention.

Applicant's arguments, particularly on page 4, 2nd paragraph are predicated on the fact the rejection is not a 102 rejection, as applicant recites the entirety of claim 1 and argues that no reference teaches the limitations of claim 1. However, it is noted that the rejections were not made under 102 but under 103 and that in combination, the references fairly teach one of ordinary skill in the art the claimed invention. It is also noted that applicant does not provide any reasoning as to why these references would not be combined by one of ordinary skill in the art beyond a general allegation of hindsight, lack of motivation, etc. Applicant is also reminded that the teachings of a reference are not limited to the preferred embodiment(s), but are applicable for what they fairly teach one of ordinary skill in the art, *In re Boe*, 148 USPQ 507 (CCPA 1966).